

AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1078**

---

**Introduced by Assembly Member Feuer**

February 27, 2009

---

An act to amend ~~Section 25257 of, and to amend and repeal Section 25251 of, Sections 25251 and 25257 of~~ the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, as amended, Feuer. Hazardous materials: toxic substances.

Existing law requires the Department of Toxic Substances Control, in the California Environmental Protection Agency, to establish a Toxics Information Clearinghouse for the collection, maintenance, and distribution of specific chemical hazard traits and environmental and toxicological endpoint data. Existing law defines various terms for the purposes of those provisions, including "consumer product." ~~As of January 1, 2012, the definition of "consumer product" excludes "mercury-containing lights".~~

This bill would ~~extend this exclusion indefinitely, with one exception as it relates to prohibiting the use of a chemical of concern in a consumer product~~ *make a technical, clarifying change to that definition.*

The bill would also make a technical, conforming change to a provision concerning information provided to the department that is a trade secret.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 25251 of the Health and Safety Code, as  
2     added by Section 1 of Chapter 560 of the Statutes of 2008, is  
3     amended to read:

4     25251. For purposes of this article, the following definitions  
5     shall apply:

6     (a) “Clearinghouse” means the Toxics Information  
7     Clearinghouse established pursuant to Section 25256.

8     (b) “Council” means the California Environmental Policy  
9     Council established pursuant to subdivision (b) of Section 71017  
10    of the Public Resources Code.

11    (c) “Office” means Office of Environmental Health Hazard  
12    Assessment.

13    (d) “Panel” means the Green Ribbon Science Panel established  
14    pursuant to Section 25254.

15    (e) “Consumer product” means a product or part of the product  
16    that is used, ~~brought~~ *bought*, or leased for use by a person for any  
17    purposes. “Consumer product” does not include any of the  
18    following:

19    (1) A dangerous drug or dangerous device as defined in Section  
20    4022 of the Business of Professions Code.

21    (2) Dental restorative materials as defined in subdivision (b) of  
22    Section 1648.20 of the Business and Professions Code.

23    (3) A device as defined in Section 4023 of the Business of  
24    Professions Code.

25    (4) A food as defined in subdivision (a) of Section 109935.

26    (5) The packaging associated with any of the items specified in  
27    paragraph (1), (2), or (3).

28    (6) A pesticide as defined in Section 12753 of the Food and  
29    Agricultural Code or the Federal Insecticide, Fungicide and  
30    Rodenticide Act (7 U.S.C. Sec. 136 ~~and following~~) *et seq.*).

31    (7) Mercury-containing lights defined as mercury-containing  
32    lamps, bulbs, tubes, or other electric devices that provide functional  
33    illumination.

34    (f) This section shall remain in effect only until December 31,  
35    2011, and as of that date is repealed, unless a later enacted statute,  
36    that is enacted before December 31, 2011, deletes or extends that  
37    date.

1     *SEC. 2. Section 25251 of the Health and Safety Code, as added*  
2     *by Section 1 of Chapter 560 of the Statutes of 2008, is amended*  
3     *to read:*

4     25251. For purposes of this article, the following definitions  
5     shall apply:

6     (a) “Clearinghouse” means the Toxics Information  
7     Clearinghouse established pursuant to Section 25256.

8     (b) “Council” means the California Environmental Policy  
9     Council established pursuant to subdivision (b) of Section 71017  
10    of the Public Resources Code.

11    (c) “Office” means Office of Environmental Health Hazard  
12    Assessment.

13    (d) “Panel” means the Green Ribbon Science Panel established  
14    pursuant to Section 25254.

15    (e) “Consumer product” means a product or part of the product  
16    that is used, ~~brought~~ *bought*, or leased for use by a person for any  
17    purposes. “Consumer product” does not include any of the  
18    following:

19    (1) A dangerous drug or dangerous device as defined in Section  
20    4022 of the Business of Professions Code.

21    (2) Dental restorative materials as defined in subdivision (b) of  
22    Section 1648.20 of the Business and Professions Code.

23    (3) A device as defined in Section 4023 of the Business of  
24    Professions Code.

25    (4) A food as defined in subdivision (a) of Section 109935.

26    (5) The packaging associated with any of the items specified in  
27    paragraph (1), (2), or (3).

28    (6) A pesticide as defined in Section 12753 of the Food and  
29    Agricultural Code or the Federal Insecticide, Fungicide and  
30    Rodenticide (7 United States Code Sections 136 ~~and following~~)  
31    *et seq.*).

32    (f) This section shall become effective on January 1, 2012.

33    ~~SECTION 1. Section 25251 of the Health and Safety Code, as~~  
34    ~~added by Section 1 of Chapter 560 of the Statutes of 2008, is~~  
35    ~~amended to read:~~

36    ~~25251. For purposes of this article, the following definitions~~  
37    ~~shall apply:~~

38    ~~(a) “Clearinghouse” means the Toxics Information~~  
39    ~~Clearinghouse established pursuant to Section 25256.~~

~~(b) “Council” means the California Environmental Policy Council established pursuant to subdivision (b) of Section 71017 of the Public Resources Code.~~

~~(c) “Office” means Office of Environmental Health Hazard Assessment.~~

~~(d) “Panel” means the Green Ribbon Science Panel established pursuant to Section 25254.~~

~~(e) “Consumer product” means a product or part of the product that is used, bought, or leased for use by a person for any purposes. Except as provided in subparagraph (B) of paragraph (7), “consumer product” does not include any of the following:~~

~~(1) A dangerous drug or dangerous device as defined in Section 4022 of the Business and Professions Code.~~

~~(2) Dental restorative materials as defined in subdivision (b) of Section 1648.20 of the Business and Professions Code.~~

~~(3) A device as defined in Section 4023 of the Business and Professions Code.~~

~~(4) A food as defined in subdivision (a) of Section 109935.~~

~~(5) The packaging associated with any of the items specified in paragraph (1), (2), or (3).~~

~~(6) A pesticide as defined in Section 12753 of the Food and Agricultural Code or the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).~~

~~(7) (A) Mercury-containing lights defined as mercury-containing lamps, bulbs, tubes, or other electric devices that provide functional illumination.~~

~~(B) Effective January 1, 2012, for the purposes of paragraph (7) of subdivision (b) of Section 25253, “consumer product” includes “mercury-containing lights” as defined in subparagraph (A).~~

~~SEC. 2. Section 25251 of the Health and Safety Code, as added by Section 1 of Chapter 560 of the Statutes of 2008, is repealed.~~

~~SEC. 3. Section 25257 of the Health and Safety Code is amended to read:~~

~~25257. (a) A person providing information pursuant to this article may, at the time of submission, identify a portion of the information submitted to the department as a trade secret and, upon the written request of the department, shall provide support for the claim that the information is a trade secret. Except as provided in subdivision (d), a state agency shall not release to the public,~~

1 subject information supplied pursuant to this article that is a trade  
2 secret, and that is so identified at the time of submission, in  
3 accordance with Section 6254.7 of the Government Code and  
4 Section 1060 of the Evidence Code.

5 (b) This section does not prohibit the exchange of a properly  
6 designated trade secret between public agencies, if the trade secret  
7 is relevant and necessary to the exercise of the agency's jurisdiction  
8 and the public agency exchanging the trade secrets complies with  
9 this section. An employee of the department that has access to a  
10 properly designated trade secret shall maintain the confidentiality  
11 of that trade secret by complying with this section.

12 (c) Information not identified as a trade secret pursuant to  
13 subdivision (a) shall be available to the public unless exempted  
14 from disclosure by other provisions of law. The fact that  
15 information is claimed to be a trade secret is public information.

16 (d) (1) Upon receipt of a request for the release of information  
17 that has been claimed to be a trade secret, the department shall  
18 immediately notify the person who submitted the information.  
19 Based on the request, the department shall determine whether or  
20 not the information claimed to be a trade secret is to be released  
21 to the public.

22 (2) The department shall make the determination specified in  
23 paragraph (1), no later than 60 days after the date the department  
24 receives the request for disclosure, but not before 30 days following  
25 the notification of the person who submitted the information.

26 (3) If the department decides that the information requested  
27 pursuant to this subdivision should be made public, the department  
28 shall provide the person who submitted the information 30 days'  
29 notice prior to public disclosure of the information, unless, prior  
30 to the expiration of the 30-day period, the person who submitted  
31 the information obtains an action in an appropriate court for a  
32 declaratory judgment that the information is subject to protection  
33 under this section or for a preliminary injunction prohibiting  
34 disclosure of the information to the public and promptly notifies  
35 the department of that action.

36 (e) This section does not authorize a person to refuse to disclose  
37 to the department information required to be submitted to the  
38 department pursuant to this article.

- 1 (f) This section does not apply to hazard trait submissions for
- 2 chemicals and chemical ingredients pursuant to this article.

O